

# Statement in the best interests of the club

To: Full Board Hythe Town Football Club

15<sup>th</sup> May 2023

Without prejudice.

**Timing: For Urgent Action**



## Summary

We the four new Directors of Hythe Town Executive Board wish to set out our concerns from our observations regarding events and discoveries and or disclosures since November 2022 in regard matters pertaining Hythe Town FC.

## High Level Summary

- We have identified issues with Bank Account management.
- Issues with Accounting Processes
- Issues regarding legal status to qualify for Isthmian League
- Issues regarding the management of Assets of the Club
- Issues regarding Trust and Transparency

For details of a summary of these concerns. (See appendix 5)

## Recommendations

We are therefore recommending the following actions are required to reduce risk to the Club and protect its future and ensure it moves forward in a legal and competent way.

- 1) With immediate effect that all directors are added to the Governing Board and the two boards are merged and its membership consists of serving Director board members only. Therefore it is the executive board who has responsibility of guardianship of the club in the future. (See appendix 2)
- 2) That the Title Deed for land no K775964 is transferred by a conveyance solicitor to the Hythe Town FC with immediate effect and linked to the company Hythe Town FC and not Hythe United a defunct club. (See appendix 4)
- 3) That as soon as practicable the three club bank accounts are closed, and a new account is opened with appropriate fiscal, and accountancy best practice instigated, effective immediately. (See appendix 3)
- 4) That all members of the of the executive board make a declaration of any other interests or matters pertaining to the club and all issues, rights, interests are declared in a register of members interests with immediate effect. (See appendix 2)

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Executive Board that placed or confirmed him and others on the Governing Board of Hythe United FC which had retained the Title Deed of the one third of the stadium. This document and its contents were withheld from the new Directors even though it contained pertinent and relevant information relating to future financial and investment decisions that would soon be made.

11. Lastly, by withholding all these issues and matters from the four new Directors it could be deduced that some were seeking to obtain the assets and finances from Ashford FC and obtain further financial assistance from those new Directors while withholding critical and pertinent information that may have changed their financial and asset decisions. This could be considered to be deliberate deception.

Any other Director who feels they also agree with these concerns in these documents can signify their agreement by return email.

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## **Appendix 1 – Trust and Transparency**

### **Historical**

We as a group had made firm plans to grow Ashford FC and build a SCEFL standard stadium in Ashford for the purposes of building a community club. However, in October 2022 it became clear that, an opportunity was available to both clubs which meant both could benefit from a merger of assets and resources that would create a larger, better community club for the people of Hythe and provide a routeway football structure which is paramount to our involvement.

### **Handshake Agreement**

In December 2022 we reached a handshake agreement with the current Hythe Executive Board on moving forward that included four members of Ashford FC joining Hythe Town FC Board as Directors and with our additional support on board to ensure Hythe Town were able to stay in the Isthmian League.

The Board of Hythe did not honour that agreement. Furthermore, we were then kept in the dark around a proposed deal with GSE and we received no official confirmation or communication from the Hythe Board as to the reasons why there was a delay or what their intentions were. All we heard were rumours, we do not feel this was handled well.

Subsequently we continued our plan to develop a SCEFL standard facility for Ashford FC. We restarted our search for land and began to work with Ashford Borough Council to find us a suitable location for a stadium to bring Ashford FC home to the Town.


### **Agreement Revived**

As the season for Hythe reached its conclusion the original 2022 proposal was revived and the four members of Ashford FC Committee invited to join the Hythe Executive board, and the mutual benefit of merged resources would be realised. We decided to give Hythe Town Board a second chance even though we were concerned about events leading to the collapse of the handshake deal. We agreed to park those concerns so we could then move forward as a group of dedicated volunteers creating a bigger, better community focused club.

### **Issues we have regarding Trust.**

It came to our attention on Thursday 11<sup>th</sup> May 2023 that a secret governing board had been re-constituted and new members were added that secret board after the handshake deal in December 2022. This secret board was to remain a secret, which was a conscious decision that the new Executive Directors were to be kept in the dark in regard an executive that could remove them at any time. At no point were we (the four new Directors) made aware of the secret board which is a relevant and significant fact that would have impacted our acceptance of joining Hythe Town Executive Board. This could be considered to be deliberately misleading to obtain assets and resources of another body under false pretences or false information.

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This is unacceptable conduct and poor club and business governance. Pertinent information about club assets and management processes cannot be kept from those who have legal responsibility to manage them.

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## Appendix 2

### **Conflicts of Interest that could damage the clubs standing.**

An individual who is not a director was added to the Secret Governing Board, which was charged to protect the assets of the historical club. This individual then proceeded to negotiate with GSE over the potential sale of those assets via a shared ground deal with Folkestone Invicta FC and GSE, with the land at Reachfields effectively becoming a community housing build in exchange. How was this protecting the assets of the club?

Furthermore, a loan has been added to the club's Company House Annual Accounts Filings that we understand was added solely based on giving money back to a former Director in case the club or ground was sold. We understand the original £40,000 was not a loan. Therefore to add it retrospectively raises fundamental questions as to why it was redescribed as a loan and then why that former Director then led the negotiations with GSE who might buy or acquire Reachfields.

We understand there are no documents for this loan, no minute's recording or voting on taking a loan. Therefore, it's appearance in the Hythe Accounts is questionable and potentially subject to an investigation.

It is in our opinion improper for a former Director or Person who had Significant Control over the Company to negotiate a deal that relinquishes land the club own when there is a potential for personal benefit (IE: Repayment of a non-documented loan). This is in our view a conflict of interest and should never have been allowed to arise. In addition, especially as the board then added that person onto a secret committee charged with protecting the clubs' assets. This is highly irregular, and we are deeply concerned by the lack of good governance and due diligence in that process.

We must consider whether an independent inquiry is required to ensure this process was fair and transparent considering the later payments from the individual and GSE to complete the season?

### **Appendix 3 – Accounts and Bank Management**

#### **Concerns we have over the Account Management**

Having reviewed the two accounts, the club has been using for its day-to-day accounting it has become clear the procedural management of the clubs' accounts are not best practice and indicate a serious concern over VAT thresholds which potentially could have been exceeded at some points in the last seven years.

The accounts because of the way they are managed are likely to be considered one entity by HMRC. The cross filing and transfers between them would strongly indicate a one entity situation.

We are concerned that by using a former now defunct club (Hythe United FC) name for one of these accounts that could be considered as trading under a name and persona that is false and untrue.

In addition, we have discovered serious irregularities in the accounting processes at the club, cash handling processes are non-existent, remuneration to relatives that not being properly accounted for and potentially reaching levels of £2,000-4,000 per annum. We have not been able to locate a proper process for the recording of these payments.

We have to consider the public perception of paying relatives to do roles within the club, while asking for donors to pay thousands to keep the club afloat. Furthermore the failure to record these payments in the accounts could again raise concerns and we must consider how the supporters would view this issue.

Likewise best practice is to advertise any paid roles and we certainly should be using volunteers where possible.

The failure to record these payments and record remuneration within the accounts is highly irregular.

Although we have no concern regarding paying employees when it is justified but it must be proportionate to the clubs financial position and properly accounted for.

#### **We are concerned over the use of Defunct Business Names**

It has come to our attention that trading has continued for over 21 years in former names of the club long after those clubs and names ceased to exist or used in relation to the current club. Hythe United FC ceased as a football entity in 2002 but a bank account in that name of Hythe United has continued to be used for trading and financial management for over 21 years.

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## Appendix 4 – Title Deeds and Club Assets

### Title Deed issues

The Title Deed for the third of the stadium that should in theory belong to Hythe Town FC was never properly transferred to the new entity when Hythe Town FC was created and was kept under the name Hythe United FC this should be of serious concern to all Directors.

This also means that in theory Hythe Town FC should have had a lease to complete all its seasons since its creation signed and agreed with the Hythe United Governing Board.

No such lease exists and therefore Hythe Town FC status in the Isthmian League could be challenged. This could be misread as misleading the league into believing the club had a lease covering the whole facility when that was not the case.

In addition, in theory the Crown could have laid claim to the land because it relates to a defunct organisation. The title deed should have been updated and transferred to the new entity of Hythe Town FC and we are concerned as to why this did not happen and who led that process? This may require an investigation.

The articles of association are out of date and pertain to a defunct club Hythe United Football Club which in theory means they are not legally binding articles and memorandum.

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## Appendix 5 – Listed Summary of Concerns

### Mismanagement

Overall, our conclusion is the club and its resources and assets have been historically mismanaged going back to the creation of Hythe Town FC from the remnants of Hythe United FC and this has put the club at serious risk. This cannot continue.

#### To Summarise:

1. The Club has potentially been using two bank accounts to avoid / evade VAT. But the use of and cross filing between the accounts indicates to us and that as no franchise was ever properly set up HMRC it is more likely to consider it to be the later rather than the former.
2. The failure to transfer assets of the former club Hythe United to the new Club Hythe Town is a concern and needs to be investigated and then rectified with immediate effect.
3. The failure to update records on Companies house is poor practice and means our primary legal duties are out of date and refer to an entity that does not exist.
4. The failure to keep and maintain proper cash handling procedures and finance records is a significant weakness in the clubs accounting this is a major cause for concern.
5. The re-creation of, and the addition of members to a Secret Governing Board that could replace or remove investors and Directors after their investment of time and money into the club is a serious breach of trust and potentially deliberately misleading.
6. The fact that members were secretly added to that group after the handshake agreement shows it was meant to stay secret. Also envelopes passed around in secret at the Play Off final again says to us, that our money and resources and volunteers were being obtained as part of a deception.
7. The continued secrecy surrounding this Governing groups existence, the stated aim of the Current Club Secretary of never informing the new Executive Directors of its existence was unprofessional. This is a matter of material interest to those with legal responsibility for the club and withholding this information is a serious breach of trust.
8. Since we have joined the board constant interference in delegated functions of the new Directors have undermined the negotiations with the current 1<sup>st</sup> Team Management and continue to slow up progress that must be made to turn the clubs' fortunes around.
9. It is in our view unacceptable that a person who is loaning the club money in lieu of money from GSE (a Housing and Construction firm) who are currently seeking to obtain the clubs land for social housing as part of a wider project is then added to a secret group who are responsible for the Title Deed protection that should have been transferred to Hythe Town when Hythe United ceased function.
10. That at the Whytehawk Play Off Final a former Director circulated or shared a document in envelopes without the knowledge of, or permission of the entire

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